

Notice of Allowability

Application No.

10/717,131

Examiner

Ives Wu

Applicant(s)

ONISHI ET AL.

Art Unit

1724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 3/14/07.
2. ☒ The allowed claim(s) is/are 1-8, 10-13 and 15.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

DETAILED ACTION

- (1). Applicants' Amendments and Remarks filed on 3/14/07 have been received.

Claim 1 is amended. Claims 9 and 14 are cancelled.

The rejections of claims 1-13 in the prior Office Action dated 1/19/07 is withdrawn in response to the Amendments filed on 3/14/07.

Allowable Subject Matter

- (2). **Claims 1-8, 10-13 and 15** are allowed.

Reasons for Allowance

- (3). The following is an examiner's statement of reasons for allowance:

The instant application is allowable for the reason that applicants' resin composition including a saponified product of ethylene-vinyl acetate copolymer having ethylene content of 82-95 mol% and a saponification degree of a vinyl acetate component of not less than 85 mol% is patentable over closest prior art references Iwanami et al (US004954557) and Onishi et al (EP1043361A1).

The closest prior art reference located by Iwanami et al (US004954557) teach a molded articles prepared by a hydrolyzed ethylene-vinyl acetate copolymer having ethylene content of 20 to 80% and a degree of hydrolysis in the vinyl acetate units of at least 90 %mol, an olefin resin and other components such as hydrotalcite solid solution (Abstract, line 1-5), or a metal salts of a higher fatty acid having 10 to 22 carbon atoms with hydrotalcite solid solution (Col. 2, line 45-48). The range of ethylene content is limited in the range of 20–80 mol%. When the ethylene content is less than 20 mol%, the thermal stability is poor, so that the processability is lowered. On the other hand, when the ethylene content is more than 80 mol%, the oxygen impermeability is lowered (Col. 3, line 1-9). Therefore, Iwanami et al (US004954557) do not anticipate the ethylene content of from 82 - 90 mol% as claimed by applicants. Although 2nd prior art reference Onishi et al (EP 1043361A1) disclose the metal soap as claimed by applicants, the ethylene content of EVOH is from 20 to 60 mol% is outside the range of 82-90 mol% as claimed by applicants. Other related prior art reference – Hirata et al (US003847728) also teach that the ethylene contents are between 25 mol% to 75 mol% in molded structure of ethylene

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vinyl acetate copolymer for the purpose of having water vapor resistance as well as gas permeation resistance optimized (Col. 3, line 41-65). The instant claims are considered to be novelty when the use of ethylene content in EVOH is equal to or higher than 82 mol% in the composition as claimed by applicants.

As of the date of this Allowability Notice, the Examiner has not located or identified any reference that can be used singularly or in combination with another reference including above-cited references to render the present invention anticipated or obvious to one of ordinary skill in the art.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ives Wu whose telephone number is 571-272-4245. The examiner can normally be reached on 8:00 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on 571-272-1166. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Examiner: Ives Wu
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Date: April 23, 2007

DUANE SMITH
PRIMARY EXAMINER

D. Smith
4-24-07